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*Attorneys for Defendant*

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

EUGENE DIVISION

WENDY LYNN JOHNSON,

Plaintiff,

v.

WALMART INC., and WALMART #2243,  
foreign corporations,

Defendants.

Case No. 6:23-cv-00902

**DEFENDANT WALMART INC.'S  
NOTICE OF REMOVAL**

Deschutes County Circuit Court  
Case No. 23CV19957

DEMAND FOR JURY TRIAL

**TO:** The United States District Court for the District of Oregon, Portland Division

**AND TO:** Plaintiff and her Attorney Kevin Coralan, Coralan Law, PC,  
965 SW Emkay Dr., Ste. 200, Bend, Oregon 97702

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PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendants Walmart Inc. and Walmart #2243 (“Defendant” or “Walmart”)<sup>1</sup>, hereby remove Case No. 23CV19957 from the Deschutes County Circuit Court for the State of Oregon (the “State Court Action”) to the United States District Court for the District of Oregon, Eugene Division (“Notice of Removal”). Removal is proper for the following reasons:

### **THE REMOVED ACTION**

1. On or about May 12, 2023, Plaintiff Wendy Lynn Johnson (“Plaintiff”) filed a civil complaint (“Complaint”) against Defendant in the State Court Action, Case No. 23CV19957.
2. On May 24, 2023, Defendant Walmart Inc. was served with the Complaint and Summons. Pursuant to 28 U.S.C. § 1446(a), copies of the Complaint and Summons are attached as Exhibit A to the Declaration of Stephan Kendall (“Kendall Decl.”). These documents, taken together, constitute all process, pleadings, and orders served on Defendant. 28 U.S.C. § 1446(a).
3. No further proceedings have been had in the State Court Action as of the date of filing of this removal.

### **THE NOTICE OF REMOVAL IS TIMELY FILED**

4. In accordance with 28 U.S.C. § 1446(b), this Notice of Removal is timely filed having been filed within 30 days after receipt by Defendant of the Complaint, from which it was first ascertained that the case is removable.

### **BASIS FOR DIVERSITY JURISDICTION**

5. On information and belief, Plaintiff Wendy Lynn Johnson is a resident of Deschutes County, Oregon. (Exhibit A to Kendall Decl., ¶ 3.)

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<sup>1</sup> The correct entity for Plaintiff’s former employer is “Walmart Inc.” Accordingly, the additional named defendant, Walmart #2243, is incorrectly identified.

6. Defendant Walmart Inc. is foreign corporation, incorporated in Delaware and with a principal place of business in Bentonville, Arkansas.

7. The amount in controversy in the present case exceeds \$75,000. (*Id.*, ¶ 42.)

8. Pursuant to 28 U.S.C. § 1332, removal is appropriate because there is complete diversity of parties and the amount in controversy exceeds \$75,000.

### **CONSENT**

9. Defendant consents to removal.

### **VENUE**

10. Venue is proper in the United States District Court for the District of Oregon, Eugene Division, because this Court is the federal judicial district embracing the Deschutes County Circuit Court for the State of Oregon, in which the lawsuit was originally filed. *See* 28 U.S.C. § 117. Accordingly, Defendant is entitled to remove this action to the United States District Court for the District of Oregon, Eugene Division, pursuant to the provisions of 28 U.S.C. § 1441(a) and according to the procedure in 28 U.S.C. § 1446.

### **NOTICE OF REMOVAL**

11. Defendant will give notice of the filing of this Notice of Removal to Plaintiff and to the Clerk of the Deschutes County Circuit Court for the State of Oregon, Case No. 23CV19957 in accordance with 28 U.S.C. § 1446(d). This Notice of Removal is concurrently being served on Plaintiff.

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WHEREFORE, Defendant hereby removes this matter, now pending in the Deschutes County Circuit Court for the State of Oregon as Case No. 23CV19957, to the United States District Court for the District of Oregon, Eugene Division.

DATED this 21<sup>st</sup> day of June, 2023.

FISHER & PHILLIPS LLP

s/ Clarence M. Belnavis

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*Attorneys for Defendant*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies under the laws of the state of Oregon that on the date written below, I caused a true and correct copy of the foregoing document, **DEFENDANT WALMART INC.'S NOTICE OF REMOVAL**, to be served on the following counsel, via the method indicated:

Kevin Carolan  
Carolan Law, PC  
965 SW Emkay Dr., Ste. 200  
Bend, OR 97702  
kevin@carolanlaw.com

Via CM/ECF

*Attorneys for Plaintiff*

Executed June 21, 2023, at Portland, Oregon.

s/ Clarence M. Belnavis

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